

Illinois Regulation is a summary of the weekly regulatory decisions of State agencies published in the Illinois Register and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules. Illinois Regulation, also titled The Flinn Report in memory of founding JCAR member Rep. Monroe Flinn, is designed to inform and involve the public in changes taking place in agency administration.

Proposed Rulemakings

■ INTERNET SALES TAXES

The DEPARTMENT OF REVENUE proposed amendments to the Part titled Leveling the Playing Field for Illinois Retail Act (86 IAC 131; 45 Ill Reg 13589) that will, upon adoption, replace emergency amendments that were effective 7/13/21. The rulemaking implements recent Public Acts and clarifies various aspects of the Act that apply to internet sales handled by marketplace facilitators (online platforms such as Amazon and eBay that advertise items for sale by third-party sellers and collect/remit payment for these items). With regard to the Chicago Municipal Soft Drink Tax and the Metropolitan Pier and Exposition Authority Retailer's Occupation Tax, the rule requires food delivery services that meet the applicable threshold (\$100,000 or more in gross sales receipts, or 200 or more sales transactions, in the

COVID-19 ACTIONS

Executive Orders of the Governor concerning the COVID-19 public health emergency can be accessed at <https://www2.illinois.gov/government/executive-orders>. Emergency rules adopted by State agencies will be summarized in The Flinn Report as they are published in the *Illinois Register*.

Emergency Rules, Page 3

previous 12 months) and serve food service establishments in the applicable taxing areas to collect and pay these taxes. These proposed rules provide further information regarding the manner and circumstances in which these taxes are imposed and reverse provisions of DOR Compliance Alert 2021-01 with regard to collection of these taxes. Food

(cont. page 2)

Adopted Rules

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted amendments to Pay Plan (80 IAC 310; 45 Ill Reg 8599), effective 10/18/21, replacing emergency amendments that were effective 7/1/21. The rulemaking implements a 3.95% FY22 general pay increase for merit compensation positions and raises the maximum pay rates in merit comp salary range by the same percentage to align them with bargaining unit-represented positions that received a 3.95% contractual pay increase effective 7/1/21.

Questions/requests for copies:
Jason Doggett, CMS, 504 Stratton Bldg., Springfield IL 62706, (217) 782-4267, fax: (217) 524-4570, CMS.PayPlan@Illinois.gov

ADOPTED RULES: Rules adopted by agencies this week. **EMERGENCY RULES:** Adopted for a temporary period not to exceed 150 days.
PROPOSED RULES: Rules proposed by agencies this week, commencing a 45-day First Notice period during which public comments must be accepted.
PEREMPTORY RULES: Rules adopted without prior public notice or JCAR review as authorized by 5 ILCS 100/5-50.
■ Designates rules of special interest to small businesses, small municipalities, and not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.
QUESTIONS/COMMENTS: Submit mail, email or phone calls to the agency personnel listed below each summary.
RULE TEXT: Available on the Secretary of State (www.cyberdriveillinois.com) and General Assembly (www.ilga.gov) websites under Illinois Register. Second Notice text (original version with changes made by the agency during First Notice included) is available on the JCAR website.

Proposed Rulemakings

(cont. from page 1)

delivery services that meet the definition of marketplace facilitators (e.g., DoorDash, GrubHub) must provide food service establishments with certification that the delivery service will assume responsibility for collecting and paying sales tax on sales made through that delivery service. A food service establishment that receives this certification from a delivery service will generally be relieved of sales tax liability for sales made through that delivery service. The emergency rule also clarifies which taxes are incurred by remote retailers (sellers with no physical presence, such as an office, warehouse or distribution center, in Illinois), marketplace sellers (persons/businesses that conduct their online sales through marketplace facilitators), and marketplace facilitators not subject to the Act. Remote retailers that make only tax-exempt sales are not subject to the Act. Occasional sales (those not made in the regular course of business, e.g., sales of equipment or assets that the retailer will no longer use) do not count toward the tax remittance threshold for remote retailers, but must be included in the tax remittance threshold for marketplace facilitators. The emergency rule also explains how retailers that use origin sourcing (applying sales taxes at the seller's location; the alternate method, destination sourcing, applies sales taxes at the buyer's location) determine the location of the sale and the applicable sales taxes.

Other provisions establish that sales by a remote retailer of any item that requires Illinois registration or title (e.g., vehicles, trailers, watercraft) are subject to Illinois sales tax; clarify the types of records marketplace facilitators and tax-exempt marketplace sellers must keep; clarify how misallocation of sales tax revenue based on incorrect information concerning tax jurisdiction boundaries will be resolved; and remove various examples related to auctioneers since recent legislation changed the applicability of the Act to licensed auctioneers. Those affected by this rulemaking include food service establishments that use online ordering and delivery services; small businesses that conduct sales through marketplace facilitators; and licensed auctioneers.

■ TAX INVESTIGATIONS

DOR also proposed amendments to the Parts titled Retailers' Occupation Tax (86 IAC 130; 45 Ill Reg 13575), Liquor Control Act (86 IAC 420; 45 Ill Reg 13642), Cigarette Tax Act (86 IAC 440; 45 Ill Reg 13646) and Cigarette Use Tax Act (86 IAC 450; 45 Ill Reg 13651) clarifying the confidentiality provision in each of the applicable statutes that allows DOR to share tax information outside the agency only for an official purpose. The Part 130 amendment states that when DOR and a law enforcement authority engage in a joint investigation of alleged sales tax violations, a written agreement between DOR and the law

enforcement authority is not required for the joint investigation to meet the "official purpose" requirement. Amendments to Parts 420, 440 and 450 clarify that DOR's sharing of tax information with a law enforcement authority as part of a joint investigation into alleged tax violations constitutes an official purpose under the applicable Acts. Those affected by these rulemakings include local law enforcement agencies that participate in DOR tax violation investigations.

Questions/requests for copies/ comments on the 5 DOR rulemakings through 12/13/21: Alexis K. Overstreet (Part 131) or Jennifer R. Kieffer (Parts 130, 420, 440 and 450), DOR, 101 West Jefferson St., Springfield IL 62794, (217) 782-2844.

■ VEHICLE REGISTRATION

The SECRETARY OF STATE proposed an amendment to Certificates of Title, Registration of Vehicles (92 IAC 1010; 45 Ill Reg 13660) that allows Electronic Registration and Titling (ERT) service providers to charge vendors up to \$14 (currently, up to \$10) for each ERT transaction. The maximum fee to be imposed upon a customer utilizing ERT services will be \$35 (currently \$25), in addition to any other fee permitted by statute or rule. This rulemaking replaces a proposed amendment that was withdrawn in last week's *Illinois Register*. Businesses that

(cont. page 3)

Proposed Rulemakings

(cont. from page 2)

provide ERT services are affected by this rulemaking.

SOS PROCEEDINGS

SOS also proposed an amendment to Departmental Duties (2 IAC 552; 45 Ill Reg 13655) clarifying certain details of SOS document service in motor vehicle collision cases that involve a non-Illinois resident. In these cases, verification of the person's non-residency in Illinois must be provided, with an affidavit of compliance that attests to and provides the out-of-State resident's address or details the manner in which the person's non-residency was determined.

Questions/requests for copies/ comments on the 2 SOS rulemakings through 12/13/21: Pamela Wright, SOS, 298 Howlett Building, Springfield, IL 62756, pwright@ilsos.gov

DENTAL COVERAGE

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed an amendment to Medical Payment (89 IAC 140; 45 Ill Reg 13510) implementing Public Act 102-95. The rulemaking authorizes medical assistance payment to All Kids School-Based Dental Program providers who provide preventive dental services in school settings to children under 19 years of age.

(cont. page 4)

Emergency Rules

COVID-19 TRAINING

The DEPARTMENT OF PUBLIC HEALTH adopted emergency amendments to Assisted Living and Shared Housing Establishment Code (77 IAC 295; 45 Ill Reg 13702), Sheltered Care Facilities Code (77 IAC 330; 45 Ill Reg 13711), Illinois Veterans' Homes Code (77 IAC 340; 45 Ill Reg 13725), Intermediate Care for Developmentally Disabled Facilities Code (77 IAC 350; 45 Ill Reg 13735), Community Living Facilities Code (77 IAC 370; 45 Ill Reg 13750), Specialized Mental Health Rehabilitation Facilities Code (77 IAC 380; 45 Ill Reg 13761) and Medically Complex for the Developmentally Disabled Facilities Code (77 IAC 390; 45 Ill Reg 13769), all effective 10/14/21 for a maximum of 150 days, continuing policies enacted in previous emergency rules that expired 10/13/21. These emergency rules require frontline clinical and management staff at the regulated facilities to undergo free COVID-19 training provided by the federal Centers for Medicare & Medicaid Services. Persons hired after 1/31/21 must complete the training within 14 days after hiring. At least 50% of staff hired on or before that date must have completed training by 2/28/21 and all staff hired prior to 1/31 must have completed training by 3/31/21. Topics addressed in the training program include infection control, personal protective equipment, disinfection,

screening, and caring for individuals with dementia during a pandemic. Additional topics addressed in training for management staff include emergency preparedness and surge capacity, emotional health of residents and staff, telehealth for nursing homes, and preparing the facility's vaccine delivery system. Frontline staff required to complete this training include facility medical directors and nursing directors, treating physicians, nurses, aides, rehabilitation coordinators, social service directors, and any licensed physical, occupational or speech therapists. Volunteers, students, contractors, consultants and caregivers who provide or engage in direct care or services to residents on behalf of a facility are also considered frontline staff and must complete the training program. Those affected by these emergency rules include assisted living facilities, sheltered care facilities, community living facilities, veteran's homes, specialized mental health facilities, and facilities for the developmentally disabled.

Questions/requests for copies of the 7 DPH emergency rules: Tracey Trigillo, DPH, Lincoln Plaza, 524 S. 2nd St., 6th Fl., Springfield IL 62701, 217/782-1159, dph.rules@illinois.gov

(cont. page 4)

Proposed Rulemakings

(cont. from page 3)

The rulemaking includes enrollment and documentation requirements for participating dental care providers and requires follow-up care referrals for children found to be at a higher than normal risk of tooth decay. Follow-up referrals may be made through the InsureKidsNow website, to the office/practice of the participating provider, or through a school-based case manager, or follow-up care may be provided at the school.

HOSPITALS

HFS also proposed an amendment to Hospital Services (89 IAC 148; 45 Ill Reg 13535) implementing PA 102-364, which establishes a payment rate for psychiatric hospitalizations at Safety Net Hospitals (those in underserved or economically distressed areas) of \$630 per day

or the inpatient psychiatric rate in effect as of 6/30/21, whichever is greater. Safety Net Hospitals are affected by this rulemaking.

CHILD SUPPORT

HFS proposed amendments to Child Support Services (89 IAC 160; 45 Ill Reg 13549) clarifying various definitions related to the Title IV-D child support program (through which HFS collects child support on behalf of custodial parents who are receiving public assistance or who request this service from HFS) and establishing that document signatures, hearings and conferences for various purposes may be completed electronically as well as on paper or in person.

Questions/requests for copies/ comments on the 3 HFS rulemakings through 12/13/21: Steffanie Garrett, HFS, 201 S. Grand Ave. East, 3rd Floor,

Springfield IL 62763-0002, HFS.Rules@illinois.gov

TANF BENEFITS

The DEPARTMENT OF HUMAN SERVICES proposed an amendment to Temporary Assistance for Needy Families (89 IAC 112; 45 Ill Reg 13562) implementing Public Act 102-178, which removes the disqualification of State or federal drug offenders from receiving TANF. (The disqualification was either permanent or for 2 years, based on the seriousness of the offense.)

Questions/requests for copies/ comments through 12/13/21: Tracie Drew, DHS, 100 S. Grand Avenue East, Harris Building, 3rd Floor, Springfield IL 62762, (217) 785-9772.

LOAN RESALES

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed amendments to Sales Finance Agency Act (38 IAC 160; 45 Ill Reg 13502) allowing sales finance agencies to sell contracts and loans to entities used in a securitization or similar transaction and to retailers from whom the sales finance agency has purchased a contract.

Questions/requests for copies/ comments through 12/13/21: Craig Cellini, DFPR, 320 W. Washington St., 2nd Floor, Springfield, IL 62786, 217/785-0813, fax: 217/557-4451.

Emergency Rules

(cont. from page 3)

CREDIT UNIONS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted an emergency amendment to Illinois Credit Union Act (38 IAC 190; 45 Ill Reg 13695), effective 10/12/21 for a maximum of 150 days. An identical proposed amendment appears in this week's *Illinois Register* at 45 Ill Reg 13508. The emergency and proposed rules provide that credit

unions with a net worth to asset ratio of more than 6% but less than 7% will not be required to make a quarterly earnings retention transfer until after the quarter ending 3/31/22, unless DFPR determines that a transfer is necessary to address safety and soundness concerns.

Questions/requests for copies/ comments on the proposed rulemaking through 12/13/21: Craig Cellini, at the DFPR address and phone number at right.

Second Notices

The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. These rulemakings will be published in next week's *Illinois Register* and considered at the November 16, 2021, meeting to be held in Chicago. Other items not published in the *Register* or The Flinn Report may also be considered. Further comments concerning these rulemakings should be addressed to JCAR using the contact information on page 1.

DEPT OF COMMERCE & ECONOMIC OPPORTUNITY

Enterprise Zone and High Impact Business Programs (14 IAC 520; 45 Ill Reg 10200) proposed 8/13/21

River Edge Redevelopment Zone Program (14 IAC 524; 45 Ill Reg 10217) proposed 8/13/21

Economic Development for a Growing Economy Program (EDGE) (14 IAC 527; 45 Ill Reg 10229) proposed 8/13/21

DEPT OF HUMAN SERVICES

Supplemental Nutrition Assistance Program (SNAP) (89 IAC 121; 45 Ill Reg 6881) proposed 6/11/21

IL COMMERCE COMMISSION

Construction of Electric Power and Communication Lines (83 IAC 305; 45 Ill Reg 5245) proposed 4/23/21

Electric Reliability (83 IAC 411; 45 Ill Reg 4193) proposed 4/2/21

Joint Committee on Administrative Rules

Senator Bill Cunningham, *co-chair*

Representative Tom Demmer

Senator John F. Curran

Representative Michael Halpin

Senator Donald DeWitte

Representative Frances Ann Hurley

Senator Kimberly Lightford

Representative Steven Reick

Senator Tony Muñoz

Representative Curtis Tarver, II

Senator Sue Rezin

Representative Keith Wheeler, *co-chair*

**Kim Schultz
Executive Director**